

SENATE CS FOR CS FOR HOUSE BILL NO. 177(FIN)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIFTH LEGISLATURE - FIRST SESSION

BY THE SENATE FINANCE COMMITTEE

Offered: 5/12/07

Referred: Today's Calendar

Sponsor(s): HOUSE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to the Alaska Gasline Inducement Act; providing inducements for the**
2 **construction of a natural gas pipeline and shippers that commit to use that pipeline;**
3 **establishing the Alaska Gasline Inducement Act reimbursement fund; providing for an**
4 **Alaska Gasline Inducement Act coordinator; making conforming amendments; and**
5 **providing for an effective date."**

6 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

7 * **Section 1.** AS 43 is amended by adding a new chapter to read:

8 **Chapter 90. Alaska Gasline Inducement Act.**

9 **Article 1. Inducement to Construction of a Natural Gas Pipeline in this State.**

10 **Sec. 43.90.010. Purpose.** The purpose of this chapter is to encourage
11 expedited construction of a natural gas pipeline that
12 (1) facilitates commercialization of North Slope gas resources in the
13 state;

(2) promotes exploration and development of oil and gas resources on the North Slope in the state;

(3) maximizes benefits to the people of the state from the development of oil and gas resources in the state; and

(4) encourages oil and gas lessees and other persons to commit to ship natural gas from the North Slope to a gas pipeline system for transportation to markets in this state or elsewhere.

Article 2. Alaska Gasline Inducement Act License.

Sec. 43.90.100. Gas project. (a) The commissioners may award an Alaska Gasline Inducement Act license as provided in this chapter. The person awarded a license under this chapter is entitled to the inducement set out in AS 43.90.110.

(b) Nothing in this chapter precludes a person from pursuing a gas pipeline independently from this chapter.

Sec. 43.90.110. Natural gas pipeline project construction inducement. (a) Subject to the limitations of this chapter, a license issued under this chapter entitles the licensee or its designated affiliate to receive

(1) subject to appropriation, state matching contributions in the form of reimbursements in a total amount not to exceed \$500,000,000, paid to the licensee during the seven-year period immediately following the date the license is awarded; the payment period may be extended by the commissioners under an amendment or modification of the project plan under AS 43.90.210; a payment under this paragraph shall be made according to the following:

(A) on or before the close of the first binding open season, the state shall reimburse the licensee's qualified expenditures at the level specified in the license; however, the state's reimbursements may not exceed 50 percent of the qualified expenditures incurred before the close of the first binding open season;

(B) after the close of the first binding open season, the state shall reimburse the licensee's qualified expenditures at the level specified in the license; however, the state's reimbursements may not exceed 90 percent of the qualified expenditures incurred after the close of the first binding open

season;

(C) a qualified expenditure is a cost that is incurred after the license is issued under this chapter by the licensee or the licensee's designated affiliate, and is directly and reasonably related to pursuing firm transportation commitments in a binding open season, to securing financing for the project, or to obtaining a certificate of public convenience and necessity from the Federal Energy Regulatory Commission or the Regulatory Commission of Alaska, as appropriate, or satisfying a requirement of an agency with jurisdiction over the project; in this subparagraph, "qualified expenditures" does not include overhead costs, lobbying costs, litigation costs, the cost of an asset or work product acquired or developed by the licensee before the license is issued, or civil or criminal penalties or fines; and

(2) the benefit of an Alaska Gasline Inducement Act coordinator who has the authority prescribed in AS 43.90.250.

(b) The commissioner of revenue in consultation with the commissioner of natural resources shall adopt regulations for determining whether an expenditure is a qualified expenditure for the purposes of (a) of this section.

Sec. 43.90.120. Request for applications for the license. (a) The commissioners shall commence a public process to request applications for a license under this chapter as soon as practicable after the effective date of this chapter.

(b) The commissioners may use independent contractors to assist them in developing the request for applications and in evaluating applications received under this chapter.

(c) The provisions of AS 36.30 do not apply to requests for applications under this chapter.

Sec. 43.90.130. Application requirements. An application for a license must be consistent with the terms of the request for applications under AS 43.90.120 and must

(1) be filed by the deadline established by the commissioners in the request for applications;

(2) provide a thorough description of a proposed natural gas pipeline

1 project for transporting natural gas from the North Slope to market, which description
2 may include multiple design proposals, including different design proposals for pipe
3 diameter, wall thickness, and transportation capacity, and which description shall
4 include

5 (A) the route proposed for the natural gas pipeline, which may
6 not be the route described in AS 38.35.017(b);

7 (B) the location of receipt and delivery points and the size and
8 design capacity of the proposed natural gas pipeline at the proposed receipt and
9 delivery points, except that this information is not required for in-state delivery
10 points unless the application proposes specific in-state delivery points;

11 (C) an analysis of the project's economic and technical
12 viability, including a description of all pipeline access and tariff terms the
13 applicant plans to offer;

14 (D) an economically and technically viable work plan, timeline,
15 and associated budget for developing and performing the proposed project,
16 including field work, environmental studies, design, and engineering,
17 implementing practices for controlling carbon emissions from natural gas
18 systems as established by the United States Environmental Protection Agency,
19 and complying with all applicable state, federal, and international regulatory
20 requirements that affect the proposed project; the applicant shall address the
21 following:

22 (i) if the proposed project involves a pipeline into or
23 through Canada, a thorough description of the applicant's plan to obtain
24 necessary rights-of-way and authorizations in Canada, a description of
25 the transportation services to be provided and a description of rate-
26 making methodologies the applicant will propose to the regulatory
27 agencies, and an estimate of rates and charges for all services;

28 (ii) if the proposed project involves marine
29 transportation of liquefied natural gas, a description of the marine
30 transportation services to be provided and a description of proposed
31 rate-making methodologies; an estimate of rates and charges for all

1 services by third parties; a detailed description of all proposed access
 2 and tariff terms for liquefaction services or, if third parties would
 3 perform liquefaction services, identification of the third parties and the
 4 terms applicable to the liquefaction services; a complete description of
 5 the marine segment of the project including the proposed ownership,
 6 control, and cost of liquefied natural gas tankers, the management of
 7 shipping services, liquefied natural gas export, destination, re-
 8 gasification facilities, and pipeline facilities needed for transport to
 9 market destinations, and the entity or entities that would be required to
 10 obtain necessary export permits and licenses or a certificate of public
 11 convenience and necessity from the Federal Energy Regulatory
 12 Commission for the transportation of liquefied natural gas in interstate
 13 commerce if United States markets are proposed; and all rights-of-way
 14 or authorizations required from a foreign country;

15 (3) commit that if the proposed project is within the jurisdiction of the
 16 Federal Energy Regulatory Commission, the applicant will

17 (A) conclude, by a date certain that is not later than 36 months
 18 after the date the license is issued, a binding open season that is consistent with
 19 the requirements of 18 C.F.R. Part 157, Subpart B (Open Seasons for Alaska
 20 Natural Gas Transportation Projects) and 18 C.F.R. 157.30 - 157.39;

21 (B) apply for Federal Energy Regulatory Commission approval
 22 to use the pre-filing procedures set out in 18 C.F.R. 157.21 by a date certain,
 23 and use those procedures before filing an application for a certificate of public
 24 convenience and necessity, except where the procedures are not required as a
 25 result of sec. 5 of the President's Decision issued under 15 U.S.C. 719 et seq.
 26 (Alaska Natural Gas Transportation Act of 1976); and

27 (C) apply for a Federal Energy Regulatory Commission
 28 certificate of public convenience and necessity to authorize the construction
 29 and operation of the proposed project described in this section by a date
 30 certain;

31 (4) if the proposed project is within the jurisdiction of the Regulatory

Commission of Alaska, commit to

(A) conclude, by a date certain that is not later than 36 months after the date the license is issued, a binding open season that is consistent with the requirements of AS 42.06; and

(B) apply for a certificate of public convenience and necessity to authorize the construction and operation of the proposed project by a date certain;

(5) commit that after the first binding open season, the applicant will assess the market demand for additional pipeline capacity at least every two years through public nonbinding solicitations or similar means;

(6) commit to expand the proposed project in reasonable engineering increments and on commercially reasonable terms that encourage exploration and development of gas resources in this state; in this paragraph,

(A) "commercially reasonable terms" means that, subject to the provisions of (7) of this section, revenue from transportation contracts covers the cost of the expansion, including increased fuel costs and a reasonable return on capital as authorized by the Federal Energy Regulatory Commission or the Regulatory Commission of Alaska, as applicable, and there is no impairment of the proposed project's ability to recover the costs of existing facilities;

(B) "reasonable engineering increments" means the amount of additional capacity that could be added by compression or a pipe addition using a compressor size or pipe size, as applicable, that is substantially similar to the original compressor size and pipe size;

(7) commit that the applicant

(A) will propose and support the recovery of mainline capacity expansion costs, including fuel costs, from all mainline system users through rolled-in rates as provided in (B) and (C) of this paragraph or through a combination of incremental and rolled-in rates as provided in (D) of this paragraph;

(B) will propose and support the recovery of mainline capacity

1 expansion costs, including fuel costs, from all mainline system users through
 2 rolled-in rates; an applicant is obligated under this subparagraph only if the
 3 rolled-in rates would increase the rates

4 (i) not described in (ii) of this subparagraph by not more
 5 than 15 percent above the initial maximum recourse rates for capacity
 6 acquired before commercial operations commence; in this sub-
 7 subparagraph, "initial maximum recourse rates" means the highest cost-
 8 based rates for any specific transportation service set by the Federal
 9 Energy Regulatory Commission, the Regulatory Commission of
 10 Alaska, or the National Energy Board of Canada, as appropriate, when
 11 the pipeline commences commercial operations;

12 (ii) by not more than 15 percent above the negotiated
 13 rate for pipeline capacity on the date of commencement of commercial
 14 operations where the holder of the capacity is not an affiliate of the
 15 owner of the pipeline project; for the purposes of this sub-
 16 subparagraph, "negotiated rate" means the rate in a transportation
 17 service agreement that provides for a rate that varies from the otherwise
 18 applicable cost-based rate, or recourse rate, set out in a gas pipeline's
 19 tariff approved by the Federal Energy Regulatory Commission, the
 20 Regulatory Commission of Alaska, or the National Energy Board of
 21 Canada, as appropriate; or

22 (iii) for capacity acquired in an expansion after
 23 commercial operations commence, to a level that is not more than 115
 24 percent of the volume-weighted average of all rates collected by the
 25 project owner for pipeline capacity on the date commercial operations
 26 commence;

27 (C) will, if recovery of mainline capacity expansion costs,
 28 including fuel costs, through rolled-in rate treatment would increase the rates
 29 for capacity described in (B) of this paragraph, propose and support the partial
 30 roll-in of mainline expansion costs, including fuel costs, to the extent that rates
 31 acquired before commercial operations commence do not exceed the levels

described in (B) of this paragraph;

(D) may, for the recovery of mainline capacity expansion costs, including fuel costs, that, under rolled-in rate treatment, would result in rates that exceed the level in (B) of this paragraph, propose and support the recovery of those costs through any combination of incremental and rolled-in rates;

(E) will not enter into a negotiated rate agreement that would preclude the applicant from collecting from any shipper, including a shipper with a negotiated rate agreement, the rolled-in rates that are required to be proposed and supported by the applicant under (B) of this paragraph or the partial rolled-in rates that are required to be proposed and supported by the applicant under (C) of this paragraph;

(8) state how the applicant proposes to deal with a North Slope gas treatment plant, regardless of whether that plant is part of the applicant's proposal, and, to the extent that the plant will be owned entirely or in part by the applicant, commit to seek certificate authority from the Federal Energy Regulatory Commission if the proposed project is engaged in interstate commerce, or from the Regulatory Commission of Alaska if the project is not engaged in interstate commerce; for a North Slope gas treatment plant that will be owned entirely or in part by the applicant, for rate-making purposes, commit to value previously used assets that are part of the gas treatment plant at net book value; describe the gas treatment plant, including its design, engineering, construction, ownership, and plan of operation; the identity of any third party that will participate in the ownership or operation of the gas treatment plant; and the means by which the applicant will work to minimize the effect of the costs of the facility on the tariff;

(9) propose a percentage and total dollar amount for the state's reimbursement under AS 43.90.110(a)(1)(A) and (B) to be specified in the license;

(10) commit to propose and support rates for the proposed project and for any North Slope gas treatment plant that the applicant may own, in whole or in part, that are based on a capital structure for rate-making that consists of not less than 70 percent debt;

(11) describe the means for preventing and managing overruns in costs

1 of the proposed project, and the measures for minimizing the effects on tariffs from
2 any overruns;

3 (12) commit to provide a minimum of five delivery points of natural
4 gas in this state;

5 (13) commit to

6 (A) offer firm transportation service to delivery points in this
7 state as part of the tariff regardless of whether any shippers bid successfully in
8 a binding open season for firm transportation service to delivery points in this
9 state, and commit to offer distance-sensitive rates to delivery points in this
10 state consistent with 18 C.F.R. 157.34(c)(8); and

11 (B) offer distance-sensitive rates to delivery points in the state
12 consistent with 18 C.F.R. 157.34(c)(8);

13 (14) commit to establish a local headquarters in this state for the
14 proposed project;

15 (15) to the maximum extent permitted by law, commit to

16 (A) hire qualified residents from throughout the state for
17 management, engineering, construction, operations, maintenance, and other
18 positions on the proposed project;

19 (B) contract with businesses located in the state;

20 (C) establish hiring facilities or use existing hiring facilities in
21 the state; and

22 (D) use, as far as is practicable, the job centers and associated
23 services operated by the Department of Labor and Workforce Development
24 and an Internet-based labor exchange system operated by the state;

25 (16) waive the right to appeal the rejection of the application as
26 incomplete, the issuance of a license to another applicant, or the determination under
27 AS 43.90.180(b) that no application merits the issuance of a license;

28 (17) commit to negotiate, before construction, a project labor
29 agreement to the maximum extent permitted by law; in this paragraph, "project labor
30 agreement" means a comprehensive collective bargaining agreement between the
31 licensee or its agent and the appropriate labor representatives to ensure expedited

1 construction with labor stability for the project by qualified residents of the state;

2 (18) commit that the state reimbursement received by a licensee may
3 not be included in the applicant's rate base, and shall be used as a credit against
4 licensee's cost of service;

5 (19) provide a detailed description of the applicant, all entities
6 participating with the applicant in the application and the project proposed by the
7 applicant, and persons the applicant intends to involve in the construction and
8 operation of the proposed project; the description must include the nature of the
9 affiliation for each person, the commitments by the person to the applicant, and other
10 information relevant to the commissioners' evaluation of the readiness and ability of
11 the applicant to complete the project presented in the application;

12 (20) demonstrate the readiness, financial resources, and technical
13 ability to perform the activities specified in the application by describing the
14 applicant's history of compliance with safety, health, and environmental requirements,
15 the ability to follow a detailed work plan and timeline, and the ability to operate within
16 an associated budget.

17 **Sec. 43.90.140. Initial application review; additional information requests;**
18 **complete applications.** (a) After the deadline established by the commissioners for
19 filing an application has passed, the commissioners shall open and review each
20 application to determine whether it is consistent with the terms of the request for
21 applications and meets the requirements of AS 43.90.130. The commissioners shall
22 reject as incomplete an application that does not meet the requirements of
23 AS 43.90.130.

24 (b) To evaluate whether an application should be rejected under (a) of this
25 section, the commissioners may request additional information relating to the
26 application.

27 (c) If, within the time specified by the commissioners, the applicant fails to
28 provide the additional information requested under (b) of this section, or submits
29 additional information that is not responsive, the application shall be rejected.

30 (d) For an application not rejected under this section, the commissioners shall
31 make a determination that the application, including any requested additional

1 information, is complete.

2 (e) Except as provided under AS 43.90.150, and after determining which
3 applications are complete, the commissioners shall make all applications available to
4 the legislature.

5 **Sec. 43.90.150. Proprietary information and trade secrets.** (a) At the
6 request of the applicant, information submitted under this chapter that the applicant
7 identifies and demonstrates is proprietary or is a trade secret is confidential and not
8 subject to public disclosure under AS 40.25. After a license is awarded, all
9 information submitted by the licensee, retained under this chapter, and not determined
10 by the commissioners to be a proprietary or trade secret, shall be made public.

11 (b) If the commissioners determine that the information submitted by the
12 applicant is not proprietary or is not a trade secret, the commissioners shall notify the
13 applicant and return the information at the request of the applicant.

14 **Sec. 43.90.160. Notice, review, and comment.** (a) The commissioners shall
15 publish notice and provide a 60-day period for public review and comment on all
16 applications determined complete under AS 43.90.140. Except as provided under
17 AS 43.90.150, all applications filed under this chapter shall be made public, including
18 applications rejected as incomplete under AS 43.90.140.

19 (b) Applications received under this chapter are not subject to public
20 disclosure under AS 40.25 until the commissioners publish notice under this section.
21 However, information that the commissioners have determined is proprietary or a
22 trade secret under AS 43.90.150 may not be made public even after the notice is
23 published under (a) of this section, except as otherwise provided in AS 43.90.150. If
24 information is proprietary or a trade secret and is held confidential under
25 AS 43.90.150, the applicant shall provide a summary of the confidential information
26 that is satisfactory to the commissioners, and the commissioners shall make the
27 summary of the information available to the public.

28 (c) After the commissioners determine that the applications are complete
29 under AS 43.90.140, information provided by an applicant to the commissioners under
30 this chapter, including information determined by the commissioners to be
31 confidential under AS 43.90.150, shall be disclosed to the legislative auditor, the fiscal

analyst who serves as head of the legislative finance division, members of the legislature, and their respective agents and contractors, on request and after the individual making the request signs a confidentiality agreement prepared by the commissioners.

Sec. 43.90.170. Application evaluation and ranking. (a) The commissioners shall evaluate all applications determined to be complete under AS 43.90.140, consider public comments received under AS 43.90.160(a), and rank each application according to the net present value of the anticipated cash flow to the state from the applicant's project proposal using the factors in (b) of this section and weighted by the project's likelihood of success based on the commissioners' assessment of the factors listed in (c) of this section.

(b) When evaluating the net present value of anticipated cash flow to the state from the applicant's project proposal, the commissioners shall use an undiscounted value and, at a minimum, discount rates of two, five, six, and eight percent, and consider

(1) how quickly the applicant proposes to begin construction of the proposed project and how quickly the project will commence commercial operation;

(2) the net back value of the gas determined by the destination market value of the gas and estimated transportation and treatment costs;

(3) the ability of the applicant to prevent or reduce project cost overruns that would increase the tariff;

(4) the initial design capacity of the applicant's project and the extent to which the design can accommodate low-cost expansion;

(5) the amount of the reimbursement by the state under AS 43.90.110(a)(1)(A) and (B) proposed by the applicant under AS 43.90.130(9);

(6) economic value resulting from payments required to be made to the state under the terms of the proposal; and

(7) other factors found by the commissioners to be relevant to the evaluation of the net present value of the anticipated cash flow to the state.

(c) When evaluating the project's likelihood of success, the commissioners shall consider

(1) the reasonableness, specificity, and feasibility of the applicant's work plan, timeline, and budget required to be submitted under AS 43.90.130, including the applicant's plan to manage cost overruns, insulate shippers from the effect of cost overruns, and encourage shippers to participate in the first binding open season;

(2) the financial resources of the applicant;

(3) the ability of the applicant to comply with the proposed performance schedule;

(4) the applicant's organization, experience, accounting and operational controls, technical skills or the ability to obtain them, and necessary equipment or the ability to obtain the necessary equipment;

(5) the applicant's record of

(A) performance on projects not licensed under this chapter;

(B) integrity and good business ethics; and

(6) other evidence and factors found by the commissioners to be relevant to the evaluation of the project's likelihood of success.

Sec. 43.90.180. Notice to the legislature of intent to issue license; denial of license. (a) If, after consideration of public comments received under AS 43.90.160(a) and evaluation of complete applications under AS 43.90.170, the commissioners determine that an application proposes a project that will sufficiently maximize the benefits to the people of this state and merits issuance of a license under this chapter, the commissioners shall

(1) issue a determination, with written findings addressing the basis for the determination; the determination becomes a final agency action on the effective date of a bill approving the issuance of the license under AS 43.90.190;

(2) publish notice of intent to issue a license under this chapter with written findings addressing the basis for the determination; and

(3) forward the notice under (2) of this subsection, along with the findings, supporting documentation, and determination under (1) of this subsection, to the presiding officer of each house of the legislature for action as provided in AS 43.90.190.

(b) If, after evaluation of complete applications under AS 43.90.170, the commissioners determine that no application sufficiently maximizes the benefits to the people of this state and merits issuance of a license under this chapter, the commissioners shall issue a written finding that addresses the basis for that determination.

(c) The commissioners' determination under (b) of this section is a final agency action.

Sec. 43.90.190. Legislative approval; issuance of license. (a) After the presiding officer of each house of the legislature receives a determination from the commissioners under AS 43.90.180, the rules committee of each house of the legislature shall introduce a bill in the committee's respective chamber that provides for the approval of the license proposed to be issued by the commissioners.

(b) If a bill approving the issuance of the license passes the legislature within 60 days after the last date a presiding officer receives a determination by the commissioners under AS 43.90.180, the commissioners shall issue the license as soon as practicable after the effective date of the Act approving the issuance of the license.

(c) Notwithstanding a legislative rule that prohibits the carryover of a bill after the end of a special session or after the end of a regular session of a legislature, a bill introduced under (a) of this section that is not passed or not withdrawn, defeated, vetoed, or indefinitely postponed shall be carried over to any subsequent regular or special legislative session convened during the 60-day period described in (b) of this section in the same reading or status it was in at the time of adjournment. However, a bill introduced under (a) of this section may not be carried over to the first regular session of a legislature.

(d) If the legislature fails to approve the issuance of the license, the commissioners

(1) may not issue the license that the legislature failed to approve; and

(2) may request new applications for a license under AS 43.90.120.

Sec. 43.90.200. Certification by regulatory authority and project sanction. (a) A licensee that is awarded a certificate of public convenience and necessity from a regulatory agency with jurisdiction over the project shall accept the certificate on or

1 before the date the order granting the certificate is no longer subject to judicial review.

2 (b) If the licensee has credit support sufficient to finance construction of the
3 project through ownership of rights to produce and market gas resources, firm
4 transportation commitments, or government financing, the licensee shall sanction the
5 project within one year after the effective date of the certificate of public convenience
6 and necessity issued by the regulatory agency with jurisdiction over the project.

7 (c) If the licensee does not have credit support sufficient to finance
8 construction of the project through ownership of rights to produce and market gas
9 resources, firm transportation commitments, or government financing, the licensee
10 shall sanction the project before the later of

11 (1) two years after the effective date of the certificate of public
12 convenience and necessity issued by the regulatory agency with jurisdiction over the
13 project; or

14 (2) five years after the close of the first binding open season of the
15 project.

16 (d) If the licensee fails to sanction the project as required under this section,
17 the licensee shall, upon request by the state,

18 (1) seek approval from the Federal Energy Regulatory Commission or
19 the Regulatory Commission of Alaska, as applicable, to abandon and transfer the
20 certificate to the state or the state's designee; and

21 (2) assign to the state or the state's designee all engineering designs,
22 contracts, permits, and other data related to the project that are acquired by the
23 licensee during the term of the license before the date of the abandonment or transfer.

24 (e) The transfer and assignments under (d) of this section as a result of failure
25 to comply with (a) or (b) of this section are at no cost to the state or the state's
26 designee. A transfer under (c) of this section shall be subject to the state's payment to
27 the licensee of the net amount of expenditures incurred and paid by the licensee that
28 are qualified expenditures for the purposes of AS 43.90.110.

29 (f) In this section, "effective date of the certificate of public convenience and
30 necessity" means the earlier of the date the order granting the certificate is no longer
31 subject to judicial review, or the date the licensee accepts the certificate.

1 **Sec. 43.90.210. Amendment of or modification to the project plan.** Subject
 2 to the approval of the commissioners, a licensee may amend or modify its project plan
 3 if the amendments or modifications improve the net present value of the project to the
 4 state, are necessary because of an order or requirement by a regulatory agency with
 5 jurisdiction over the project or by the Alaska Oil and Gas Conservation Commission,
 6 or the amendment or modification is necessary because of changed circumstances
 7 outside the licensee's control and not reasonably foreseeable before the license was
 8 issued. An amendment or modification approved under this section must be consistent
 9 with the requirements of AS 43.90.130 and, except for an amendment or modification
 10 required because of an order or requirement of a regulatory agency with jurisdiction
 11 over the project or by the Alaska Oil and Gas Conservation Commission, may not
 12 substantially diminish the value of the project to the state or the project's likelihood of
 13 success.

14 **Sec. 43.90.220. Records, reports, conditions, and audit requirements.** (a) A
 15 licensee shall maintain complete and accurate records of all expenditures and
 16 commitments of state money received under this chapter, including receipts and
 17 records showing the payment or cost of purchased items and services, the names and
 18 addresses of the sellers and service providers, and the dates of service or delivery.

19 (b) Upon reasonable notice, the commissioners may audit the records, books,
 20 and files of the entity receiving the state money or making the expenditures and
 21 commitments of money received from the state under this chapter.

22 (c) The commissioners may do the following with respect to information
 23 relating to the project: conduct hearings or other investigative inquiries; compel the
 24 attendance of witnesses and production of documents; and require the licensee to
 25 furnish information in paper copy or electronic format.

26 (d) After a license has been issued and until commencement of commercial
 27 operations of a natural gas pipeline, the licensee shall allow the commissioners to

28 (1) have a representative present at all meetings of the licensee's
 29 governing body or bodies and equity holders that relate to the project;

30 (2) receive all relevant notices and information when and as sent to the
 31 governing body or bodies and equity holders;

1 (3) enjoy the same access to information about the licensee as the
2 governing body members and equity owners receive; and

3 (4) receive relevant reports or information from the licensee that the
4 commissioners reasonably request.

5 (e) All proprietary information, privileged information, and trade secrets
6 received by the commissioners or their representative under (d) of this section are not
7 subject to public disclosure under AS 40.25.

8 (f) A licensee shall maintain the records and reports required under this
9 section for seven years from the date the licensee receives state money under this
10 chapter.

11 **Sec. 43.90.230. License violations; damages.** (a) A licensee is in violation of
12 the license if the commissioners determine that the licensee has

13 (1) requested and received money from the state under this chapter for
14 an expenditure that is not a qualified expenditure under AS 43.90.110;

15 (2) except as required to conform with a requirement of a regulatory
16 agency with jurisdiction over the project, substantially departed from the
17 specifications set out in the application without state approval of a project plan
18 amendment or modification under AS 43.90.210;

19 (3) violated any provision of this chapter or any other provision of
20 state or federal law material to the license;

21 (4) failed to accept a certificate as required under AS 43.90.200(a) or
22 failed to sanction the project as required under AS 43.90.200(b); or

23 (5) otherwise violated a material term of the license.

24 (b) The commissioners shall provide written notice to the licensee identifying
25 a license violation. The commissioners and the licensee have 90 days after the date the
26 notice is issued to resolve the violation informally.

27 (c) The commissioners may suspend disbursement of state reimbursements to
28 the licensee beginning on the date that the notice of violation issued under (b) of this
29 section is sent to the licensee. The commissioners may resume disbursement on the
30 date that the commissioners determine that the violation is cured.

31 (d) If the commissioners and the licensee are unable to resolve the violation

1 within the period described in (b) of this section, the commissioners shall notify the
 2 licensee that the violation has not been cured and provide the licensee with an
 3 opportunity to be heard. If, after notice and hearing, the commissioners determine that
 4 the violation has not been cured, the commissioners shall issue a written decision that
 5 is a final administrative action for purposes of appeal to the superior court in the state.

6 (e) If the determination issued under (d) of this section finds an unresolved
 7 violation, the commissioners may impose one or more of the following remedies:

8 (1) discontinuation of state reimbursements under this chapter;

9 (2) recoupment of state money that the licensee has received under this
 10 chapter to date, with interest, regardless of whether the licensee has expended or
 11 committed that money;

12 (3) license revocation;

13 (4) assignment to the state or the state's designee of all engineering
 14 designs, contracts, permits, and other data related to the project that are acquired by
 15 the licensee during the term of the license; and

16 (5) any other remedies provided by law or in equity.

17 **Sec. 43.90.240. Abandonment of project.** (a) If the commissioners and the
 18 licensee agree that the project is uneconomic, the project shall be abandoned, the
 19 inducement provided for in AS 43.90.110 terminated, and, except for requirements
 20 imposed on the licensee under (e) of this section and AS 43.90.220, the state and the
 21 licensee no longer have an obligation under this chapter with respect to the license.

22 (b) If the commissioners or the licensee determine that the project is
 23 uneconomic and the other party disagrees, the disagreement shall be settled by
 24 arbitration administered by the American Arbitration Association under the
 25 substantive and procedural laws of this state, and judgment on the award rendered by
 26 the arbitrators may be entered in superior court in the state. In the event of arbitration,
 27 each party shall select an arbitrator from the American Arbitration Association's
 28 National Roster, and the two arbitrators shall appoint a third arbitrator from the
 29 American Arbitration Association's National Roster who shall serve as the chair of the
 30 three-member arbitration panel. If the arbitration panel determines that the project is

31 (1) uneconomic, the state and the licensee no longer have an obligation

1 under this chapter with respect to the license, except for requirements imposed on the
2 licensee under (e) of this section and AS 43.90.220; or

3 (2) not uneconomic, the obligations of the licensee and the state
4 continue as provided under this chapter and the license.

5 (c) The arbitration panel in (b) of this section shall make a determination that
6 the project is uneconomic only if the panel finds that the party claiming the project is
7 uneconomic has proven by a preponderance of the evidence that the

8 (1) project does not have credit support sufficient to finance
9 construction of the project through firm transportation commitments, government
10 assistance, or other external sources of financing; and

11 (2) predicted costs of transportation at a 100 percent load factor, when
12 deducted from predicted gas sales revenue using publicly available predictions of
13 future gas prices, would result in a producer rate of return that is below the rate
14 typically accepted by a prudent oil and gas exploration and production company for
15 incremental upstream investment that is required to produce and deliver gas to the
16 project.

17 (d) If the state makes a payment to the licensee under AS 43.90.440, the
18 license is considered abandoned, and the state and the licensee no longer have any
19 obligations under this chapter with respect to the license, except that the licensee must
20 comply with the

21 (1) requirements imposed on the licensee under AS 43.90.220
22 regarding state money received by the licensee before the license was considered
23 abandoned; and

24 (2) requirements of AS 43.90.440.

25 (e) If the commissioners and the licensee agree that the project is uneconomic
26 or an arbitration panel makes a final determination that the project is uneconomic, the
27 licensee shall, upon the state's request, transfer to the state or the state's designee all
28 engineering designs, contracts, permits, and other data related to the project that are
29 acquired by the licensee during the term of the license upon reimbursement by the
30 state of the net amount of expenditures incurred and paid by the licensee that are
31 qualified expenditures for the purposes of AS 43.90.110.

1 **Sec. 43.90.250. Alaska Gasline Inducement Act coordinator.** (a) There is
 2 created in the Office of the Governor the position of Alaska Gasline Inducement Act
 3 coordinator. Administrative support for the position shall be provided by the Office of
 4 the Governor. The position shall continue until one year after commencement of
 5 commercial operations of the project.

6 (b) The governor shall appoint a person to the position of Alaska Gasline
 7 Inducement Act coordinator. The individual serving as the Alaska Gasline Inducement
 8 Act coordinator may be removed from the position at the discretion of the governor.

9 **Sec. 43.90.260. Expedited review and action by state agencies.** (a) A review
 10 conducted and action taken by a state agency relating to the project shall be expedited
 11 in a manner consistent with the completion of the necessary approvals in accordance
 12 with this chapter.

13 (b) Notwithstanding any contrary provision of law, a state agency may not
 14 include in any project certificate, right-of-way, permit, or other authorization issued to
 15 the licensee a term or condition that is not required by law if the coordinator
 16 determines that the term or condition would prevent or impair in any significant
 17 respect the expeditious construction and operation or expansion of the project.

18 (c) Unless required by law, a state agency may not add to, amend, or abrogate
 19 any certificate, right-of-way, permit, or other authorization issued to a licensee if the
 20 coordinator determines that the action would prevent or impair in any significant
 21 respect the expeditious construction, operation, or expansion of the project.

22 **Article 3. Resource Inducements.**

23 **Sec. 43.90.300. Qualification for resource inducements.** (a) Notwithstanding
 24 any contrary provision of law, a lessee or other person that demonstrates to the
 25 satisfaction of the commissioners that the person has committed to acquire firm
 26 transportation capacity in the first binding open season of the project is qualified to
 27 receive the resource inducement set out in AS 43.90.310 and 43.90.320 for gas
 28 produced on the North Slope and shipped in firm transportation capacity acquired in
 29 the first binding open season of the project. The inducement in AS 43.90.310 is
 30 contractual.

31 (b) A gas producer receiving a voucher under AS 43.90.330 is qualified to

1 receive the resource inducement in AS 43.90.310 and 43.90.320 for the gas shipped in
 2 the firm transportation capacity described in the voucher for the period described in
 3 AS 43.90.330.

4 **Sec. 43.90.310. Royalty inducement.** (a) Before the start of the first binding
 5 open season to be conducted by the licensee, the commissioner of natural resources
 6 shall adopt regulations that establish a method to determine the monthly value of the
 7 state's royalty share of gas production and establish terms under which the state will
 8 exercise its right to switch between taking its royalty in value or in kind for gas
 9 committed for firm transportation in the first binding open season of the project or
 10 shipped in the firm transportation capacity described in a voucher received by the gas
 11 producer under AS 43.90.330. The regulations must

12 (1) minimize retroactive adjustments to the monthly value of the state's
 13 royalty share of gas production;

14 (2) provide a method for establishing a fair market value for each
 15 component of the state's royalty gas that is based on pricing data from reliable and
 16 widely available industry trade publications and that uses appropriate adjustments to
 17 reflect

18 (A) deductions for actual and reasonable transportation costs
 19 for the state's royalty gas, including a reasonable share of the costs associated
 20 with unused capacity commitments on gas pipelines from the North Slope to
 21 the first destination market with reasonable market liquidity;

22 (B) location differentials between the destination markets
 23 where North Slope gas could be sold;

24 (C) reasonable and actual costs for gas processing; in this
 25 subparagraph, "gas processing" means post-production treatment of gas to
 26 extract natural gas liquids; and

27 (D) deductions permitted under the 1980 Royalty Settlement
 28 Agreement for Prudhoe Bay gas; and

29 (3) establish terms under which the state will exercise its authority to
 30 switch between taking its royalty gas in value and in kind to ensure that the state's
 31 actions do not unreasonably

1 (A) cause the lessee or other person to bear disproportionate
2 transportation costs with respect to the state's royalty gas;

3 (B) interfere with the lessee's or other person's long-term
4 marketing of its production.

5 (b) If a lessee or other person qualified for resource inducement under
6 AS 43.90.300 agrees under (c) of this section, the lessee or other person is entitled to
7 elect

8 (1) to calculate its gas royalty obligation under the regulations adopted
9 under (a) of this section for natural gas transported on a firm contract executed during
10 the project's first binding open season or under the methodology set out in the existing
11 leases from which the gas is produced, and

12 (A) upon the request of the lessee, the commissioner of natural
13 resources shall contractually amend the existing lease to effect the election
14 under this paragraph and incorporate as fixed contract terms the relevant
15 regulatory provisions; and

16 (B) the election under this paragraph remains in effect until
17 new regulations are adopted as a result of a review under (d) of this section, at
18 which time, a lessee or other person qualified under AS 43.90.300 may change
19 its election under this paragraph; upon the request of the lessee, the
20 commissioner of natural resources shall contractually amend the lease to
21 incorporate as fixed contract terms the relevant revised regulatory provisions;

22 (2) to enter into a contract with the state that amends the existing lease
23 terms by providing a mechanism that ensures that, when the state exercises its right to
24 switch between taking its royalty in value or in kind for gas committed for firm
25 transportation in the first binding open season of the project, the lessee or other person
26 does not bear disproportionate transportation costs with respect to the state's royalty
27 gas; and by modifying the required period of notice that the state must provide before
28 exercising the state's right to switch between taking its royalty in value or in kind for
29 gas committed for firm transportation in the first binding open season of the project.

30 (c) To claim the inducement under (b) of this section, a lessee or other person
31 qualified under AS 43.90.300 shall agree, on an application form provided by the

1 Department of Natural Resources, that the lessee or other person, and the lessee's or
 2 other person's affiliates, successors, assigns, and agents will not protest or appeal a
 3 filing by the licensee to roll in expansion costs of the mainline up to a level that is
 4 required in AS 43.90.130(7) if the Federal Energy Regulatory Commission does not
 5 have a rebuttable presumption in effect that rolled-in treatment applies to the cost of
 6 the expansion of the project. The agreement not to protest may not preclude the lessee
 7 or other person, or the lessee's or other person's affiliates, successors, assigns, and
 8 agents from protesting a filing to roll in mainline expansion costs that licensee is not
 9 required to propose and support under AS 43.90.130(7).

10 (d) The commissioner of natural resources shall provide for review of the
 11 regulations adopted under (a) of this section at least every two years after the
 12 commencement of commercial operations to determine whether the regulations
 13 continue to meet the requirements of (a) of this section under current conditions, and
 14 shall amend the regulations when the requirements are not being met.

15 (e) No provision of this chapter precludes the election set out in (b) of this
 16 section, nor may the commissioner of natural resources assert any provision of any
 17 existing lease or unit agreement as precluding the elections set out in (b) of this
 18 section.

19 **Sec. 43.90.320. Gas production tax exemption.** (a) If a person qualified for
 20 resource inducement under AS 43.90.300 agrees under (c) of this section, the person is
 21 entitled to an annual exemption from the state's gas production tax in an amount equal
 22 to the difference between the amount of the person's gas production tax obligation
 23 calculated under the gas production tax in effect during that tax year and the amount of
 24 the person's gas production tax obligation calculated under the gas production tax in
 25 effect at the start of the first binding open season held under this chapter. If the
 26 difference is less than zero, the gas production tax exemption is zero.

27 (b) The exemption under this section may be applied within 10 years
 28 immediately following commencement of commercial operations and only applied to
 29 production taxes that are levied on North Slope gas shipped through firm
 30 transportation capacity the person acquired during the first binding open season or
 31 shipped in the firm transportation capacity described in a voucher received by the gas

1 producer under AS 43.90.330.

2 (c) The person claiming the exemption under this section shall agree that the
3 person, and the person's affiliates, successors, assigns, and agents, will not protest or
4 appeal a filing by the licensee to roll in mainline expansion costs up to the level that
5 the licensee is required to propose and support under AS 43.90.130(7) if the Federal
6 Energy Regulatory Commission does not have a rebuttable presumption in effect that
7 rolled-in treatment applies to the cost of the expansion of the project. The agreement
8 required under this subsection may not preclude the person, or the person's affiliates,
9 successors, assigns, and agents, from protesting a filing to roll in mainline expansion
10 costs that the licensee is not required to propose and support under AS 43.90.130(7).

11 (d) In this section, "gas production tax" means the tax levied on the production
12 of gas under AS 43.55.

13 **Sec. 43.90.330. Inducement vouchers.** (a) A person that acquires firm
14 transportation capacity in the first binding open season of the project, that does not
15 hold an oil and gas lease on the North Slope, and that is not an affiliate of a person that
16 holds an oil and gas lease on the North Slope, may apply to the commissioners for a
17 voucher under this section. A voucher issued by the commissioners must describe the
18 firm transportation capacity in the project to which the voucher is applicable.

19 (b) A voucher issued by the commissioners under this section entitles the
20 holder of the voucher to the resource inducements in AS 43.90.310 and 43.90.320 for
21 gas shipped in the firm transportation capacity acquired by the person applying for the
22 voucher during the first binding open season of the project and described in the
23 voucher. The voucher may be transferred to a gas producer that has a binding
24 obligation to sell gas to the person transferring the voucher under a gas purchase
25 agreement.

26 (c) A gas producer holding a voucher may claim the resource inducements for
27 gas shipped through the firm transportation capacity described in the voucher and only
28 on gas that is produced and delivered to the purchaser on the North Slope. A gas
29 producer may claim the resource inducements under this subsection until the earlier of
30 the termination of the binding gas purchase agreement or the expiration of the
31 inducements by operation of law.

(d) A person that receives a voucher under this section and a gas producer that receives resource inducements under a voucher shall agree that the person and the gas producer and their respective affiliates, successors, assigns, or agents will not protest or appeal a filing by the licensee to roll-in mainline expansion costs up to the level that the licensee is required to propose and support under AS 43.90.130(7) if the Federal Energy Regulatory Commission does not have a rebuttable presumption in effect that rolled-in treatment applies to the cost of the expansion of the project. The agreement required under this subsection may not preclude the person or gas producer or their respective affiliates, successors, assigns, or agents from protesting a filing to roll-in mainline expansion costs that the licensee is not required to propose and support under AS 43.90.130(7).

Article 4. Miscellaneous Provisions.

Sec. 43.90.400. Alaska Gasline Inducement Act reimbursement fund; disbursements; audits. (a) There is established in the general fund an Alaska Gasline Inducement Act reimbursement fund. The fund consists of money appropriated to it by the legislature for disbursement to pay the state's reimbursements under AS 43.90.110. Money appropriated to the fund may be spent for the purposes of the fund without further appropriation. Appropriations to the fund do not lapse under AS 37.25.010, but remain in the fund for future disbursements. Nothing in this subsection creates a dedicated fund.

(b) The Department of Revenue shall manage the fund, and may invest money in the fund so as to yield competitive market rates as provided in AS 37.10.071. Income earned on the fund shall be accounted for separately and may be appropriated annually to the fund.

(c) The commissioners shall adopt regulations that provide for application to receive reimbursements for qualified expenditures as provided under AS 43.90.110, and that provide for periodic audits of the use of money disbursed as reimbursements under this chapter.

(d) Within 10 days after the convening of each regular session of the legislature, the commissioners shall submit to the legislature a report that lists all the disbursements from the fund during the preceding fiscal year with a written

1 justification for each disbursement and the projected amount of money that will be
2 required for reimbursements in each of the next three fiscal years.

3 **Sec. 43.90.410. Regulations.** The commissioners may jointly adopt or amend
4 regulations for the purpose of implementing the provisions of this chapter. The
5 commissioner of revenue and the commissioner of natural resources may adopt or
6 amend regulations adopted under authority outside of this chapter as necessary to
7 implement the provisions of this chapter.

8 **Sec. 43.90.420. Statute of limitations.** A person may not bring a judicial
9 action challenging the constitutionality of this chapter or the constitutionality of a
10 license issued under this chapter unless the action is commenced in a court of the state
11 of competent jurisdiction within 90 days after the date that a license is issued.

12 **Sec. 43.90.430. Interest.** When a payment due to the state under this chapter
13 becomes delinquent, the payment bears interest at the rate applicable to a delinquent
14 tax under AS 43.05.225.

15 **Sec. 43.90.440. Licensed project assurances.** (a) Except as otherwise
16 provided in this chapter, the state grants a licensee assurances that the licensee has
17 exclusive enjoyment of the inducements provided under this chapter before the
18 commencement of commercial operations. If, before the commencement of
19 commercial operations, the state extends to another person preferential royalty or tax
20 treatment or grant of state money for the purpose of facilitating the construction of a
21 competing natural gas pipeline project in this state, and if the licensee is in compliance
22 with the requirements of the license and with the requirements of state and federal
23 statutes and regulations relevant to the project, the licensee is entitled to payment from
24 the state of an amount equal to three times the total amount of the expenditures
25 incurred and paid by the licensee that are qualified expenditures for the purposes of
26 AS 43.90.110 that the licensee incurred in developing the licensee's project before the
27 date that the state first extended preferential treatment to another person. The payment
28 under this subsection is subject to appropriation. Upon payment by the state of the
29 amount owed under this section, the licensee shall, at no additional cost to the state,
30 assign to the state or the state's designee all engineering designs, contracts, permits,
31 and other data related to the project that were acquired by the licensee during the term

1 of the license. The payment under this subsection is in full satisfaction of all claims
 2 the licensee may bring in contract, tort, or other law related to the events that gave rise
 3 to the payment.

4 (b) The review, processing, or facilitation of a permit, right-of-way, or
 5 authorization by a state agency in connection with a competing natural gas pipeline
 6 project does not create an obligation on the part of the state under this section.

7 (c) In this section,

8 (1) "competing natural gas pipeline project" means a project designed
 9 to accommodate throughput of more than 500,000,000 cubic feet a day of North Slope
 10 gas to market;

11 (2) "preferential royalty or tax treatment" does not include

12 (A) the state's exercise of its right to resolve disputes involving
 13 royalties and taxes; or

14 (B) the state's exercise of its right to modify royalties as
 15 authorized by law in effect on the effective date of this section.

16 **Sec. 43.90.450. Assignments.** (a) A licensee may transfer all or part of the
 17 license, including the rights and obligations arising under the license, if, after
 18 publishing notice of the proposed transfer, providing notice to the presiding officer of
 19 each house of the legislature, and providing a period of not less than 30 days for public
 20 review and comment,

21 (1) the transfer is approved in writing in advance by the
 22 commissioners; and

23 (2) the transfer does not increase or diminish the obligations created by
 24 the license or diminish the likelihood of success of the project or the net present value
 25 of the license to the state.

26 (b) Notwithstanding the commissioners' approval of a transfer of all or part of
 27 a license under (a) of this section, the transferor of the license remains subject to the
 28 requirements of AS 43.90.220 regarding all state money received by the licensee
 29 before the effective date of the transfer.

30 (c) A person may transfer that person's rights to the royalty inducement under
 31 AS 43.90.310 and the gas production tax exemption under AS 43.90.320 only in

1 connection with a sale or merger that results in transfer of all the person's assets in the
 2 North Slope along with the person's firm transportation capacity contracts in the
 3 project.

4 (d) Except for the transfer of a voucher to a producer under AS 43.90.330(b),
 5 a person receiving a voucher under AS 43.90.330 based on the person's acquisition of
 6 firm transportation capacity in the first binding open season of the project may transfer
 7 the voucher only if the transfer is in connection with the permanent assignment by the
 8 person of 100 percent of the firm transportation capacity acquired in the first binding
 9 open season of the project.

10 **Sec. 43.90.460. Conflicting laws.** Nothing in this chapter shall be construed to
 11 repeal or abrogate the administrative, regulatory, or statutory procedures and functions
 12 of state and federal law governing the development and oversight of a project.

13 **Sec. 43.90.470. State pipeline employment development.** The commissioner
 14 of labor and workforce development shall develop a job training program that will
 15 provide training for Alaskans in gas pipeline project management, construction,
 16 operations, maintenance, and other gas pipeline-related positions.

17 **Article 5. General Provisions.**

18 **Sec. 43.90.900. Definitions.** In this chapter, unless the context otherwise
 19 requires,

20 (1) "affiliate" means another person that controls, is controlled by, or is
 21 under common control with a person, and includes a division that operates as a
 22 functional unit;

23 (2) "Alaska Gasline Inducement Act coordinator" or "coordinator"
 24 means the person appointed under AS 43.90.250;

25 (3) "applicant" means a person or group of persons that files an
 26 application for a license;

27 (4) "certificate of public convenience and necessity" and "certificate"
 28 mean a certificate of public convenience and necessity issued by the Federal Energy
 29 Regulatory Commission or the Regulatory Commission of Alaska and an amendment
 30 to a certificate of public convenience and necessity issued by the Federal Energy
 31 Regulatory Commission under 15 U.S.C. 719 et seq. (Alaska Natural Gas

1 Transportation Act of 1976);

2 (5) "commencement of commercial operations" means the first flow of
3 gas in the project that generates revenue to the owners;

4 (6) "commissioners" means the commissioner of revenue and the
5 commissioner of natural resources, acting jointly;

6 (7) "control" means the possession of ownership interest or authority
7 sufficient to, directly or indirectly, and whether acting alone or in conjunction with
8 others, direct or cause the direction of the management or policies of a company, and
9 is rebuttably presumed if the voting interest held is 10 percent or more;

10 (8) "equity holder" means the

11 (A) stockholders of a corporation;

12 (B) members of a limited liability company;

13 (C) partners of a partnership;

14 (D) joint venturers of a joint venture;

15 (E) members of a governmental authority and similar persons;

16 or

17 (F) holders of any other entity or person;

18 (9) "gas treatment plant" means a facility downstream of the point of
19 production that conditions gas and removes nonhydrocarbon substances from the gas
20 for the purpose of rendering the gas acceptable for tender and acceptance into a gas
21 pipeline system.

22 (10) "governing body" means a corporation's board of directors, a
23 limited liability company's managing members, a partnership's general partners, a joint
24 venturer's joint venturers, a governmental authority's board or council members, and
25 similar entities;

26 (11) "lease" means an oil and gas, or gas, lease issued by this state;

27 (12) "lessee" means a person that holds a working interest in an oil and
28 gas, or gas, lease issued by this state;

29 (13) "license" means a license issued under this chapter;

30 (14) "licensee" means the holder of a license issued under this chapter
31 and all affiliates, successors, assigns, and agents of the holder;

1 (15) "net present value" means the discounted value of a future stream
2 of cash flow;

3 (16) "North Slope" means that part of the state that lies north of 68
4 degrees North latitude;

5 (17) "open season" means the process that complies with 18 C.F.R.
6 Part 157, Subpart B (Open Seasons for Alaska Natural Gas Transportation Projects) or
7 a similar process for soliciting commitments for pipeline capacity under the
8 regulations, policies, rules, or precedent of the Regulatory Commission of Alaska;

9 (18) "point of production" has the meaning given in AS 43.55.900;

10 (19) "project" means a natural gas pipeline project authorized under a
11 license issued under this chapter;

12 (20) "proprietary," when used to describe information, means that the
13 information is treated by an applicant as confidential and the public disclosure of that
14 information would adversely affect the competitive position of the applicant or
15 materially diminish the commercial value of the information to the applicant;

16 (21) "recourse rates" means cost-based rates with a minimum and
17 maximum range that are approved by the Federal Energy Regulatory Commission, the
18 Regulatory Commission of Alaska, or the National Energy Board of Canada, as
19 appropriate, and set out in the pipeline's tariff; "recourse rates" includes only those
20 rates that the pipeline must make available to all shippers;

21 (22) "sanction" means to make financial commitments to go forward
22 with the project as evidenced by entering into financial commitments of at least
23 \$1,000,000,000 with third parties;

24 (23) "trade secret" has the meaning given in AS 45.50.940;

25 (24) "under common control with" has the meaning given "control" in
26 this section;

27 (25) "unit agreement" means an agreement executed by the working
28 interest owners and royalty owners creating the unit.

29 **Sec. 43.90.990. Short title.** This chapter may be cited as the Alaska Gasline
30 Inducement Act.

31 * **Sec. 2.** AS 36.30.850(b) is amended by adding a new paragraph to read:

(45) contracts for an arbitration panel to determine whether a project is uneconomic under AS 43.90.240, and contracts for the development of application provisions for licensure and for the evaluation of those applications under AS 43.90.

* **Sec. 3.** AS 38.05.020(b) is amended to read:

(b) The commissioner may

(1) establish reasonable procedures and adopt reasonable regulations necessary to carry out this chapter and, whenever necessary, issue directives or orders to the director to carry out specific functions and duties; regulations adopted by the commissioner shall be adopted under AS 44.62 (Administrative Procedure Act); orders by the commissioner classifying land, issued after January 3, 1959, are not required to be adopted under AS 44.62 (Administrative Procedure Act);

(2) enter into agreements considered necessary to carry out the purposes of this chapter, including agreements with federal and state agencies;

(3) review any order or action of the director;

(4) exercise the powers and do the acts necessary to carry out the provisions and objectives of this chapter;

(5) notwithstanding the provisions of any other section of this chapter, grant an extension of the time within which payments due on any exploration license, lease, or sale of state land, minerals, or materials may be made, including payment of rental and royalties, on a finding that compliance with the requirements is or was prevented by reason of war, riots, or acts of God;

(6) classify tracts for agricultural uses;

(7) after consulting with the Board of Agriculture and Conservation (AS 03.09.010), waive, postpone, or otherwise modify the development requirements of a contract for the sale of agricultural land if

(A) the land is inaccessible by road; or

(B) transportation, marketing, and development costs render the required development uneconomic;

(8) reconvey or relinquish land or an interest in land to the federal government if

(A) the land is described in an amended application for an

allotment under 43 U.S.C. 1617; and

(B) the reconveyance or relinquishment is

(i) for the purposes provided in 43 U.S.C. 1617; and

(ii) in the best interests of the state;

(9) lead and coordinate all matters relating to the state's review and authorization of resource development projects;

(10) exercise the powers and do the acts necessary to carry out the provisions and objectives of AS 43.90 that relate to this chapter.

* **Sec. 4.** AS 39.25.110 is amended by adding a new paragraph to read:

(41) the Alaska Gasline Inducement Act coordinator appointed under AS 43.90.250.

* **Sec. 5.** AS 40.25.120(a) is amended to read:

(a) Every person has a right to inspect a public record in the state, including public records in recorders' offices, except

(1) records of vital statistics and adoption proceedings, which shall be treated in the manner required by AS 18.50;

(2) records pertaining to juveniles unless disclosure is authorized by law;

(3) medical and related public health records;

(4) records required to be kept confidential by a federal law or regulation or by state law;

(5) to the extent the records are required to be kept confidential under 20 U.S.C. 1232g and the regulations adopted under 20 U.S.C. 1232g in order to secure or retain federal assistance;

(6) records or information compiled for law enforcement purposes, but only to the extent that the production of the law enforcement records or information

(A) could reasonably be expected to interfere with enforcement proceedings;

(B) would deprive a person of a right to a fair trial or an impartial adjudication;

(C) could reasonably be expected to constitute an unwarranted

1 invasion of the personal privacy of a suspect, defendant, victim, or witness;

2 (D) could reasonably be expected to disclose the identity of a
3 confidential source;

4 (E) would disclose confidential techniques and procedures for
5 law enforcement investigations or prosecutions;

6 (F) would disclose guidelines for law enforcement
7 investigations or prosecutions if the disclosure could reasonably be expected to
8 risk circumvention of the law; or

9 (G) could reasonably be expected to endanger the life or
10 physical safety of an individual;

11 (7) names, addresses, and other information identifying a person as a
12 participant in the Alaska Higher Education Savings Trust under AS 14.40.802 or the
13 advance college tuition savings program under AS 14.40.803 - 14.40.817;

14 (8) public records containing information that would disclose or might
15 lead to the disclosure of a component in the process used to execute or adopt an
16 electronic signature if the disclosure would or might cause the electronic signature to
17 cease being under the sole control of the person using it;

18 (9) reports submitted under AS 05.25.030 concerning certain
19 collisions, accidents, or other casualties involving boats;

20 (10) records or information pertaining to a plan, program, or
21 procedures for establishing, maintaining, or restoring security in the state, or to a
22 detailed description or evaluation of systems, facilities, or infrastructure in the state,
23 but only to the extent that the production of the records or information

24 (A) could reasonably be expected to interfere with the
25 implementation or enforcement of the security plan, program, or procedures;

26 (B) would disclose confidential guidelines for investigations or
27 enforcement and the disclosure could reasonably be expected to risk
28 circumvention of the law; or

29 (C) could reasonably be expected to endanger the life or
30 physical safety of an individual or to present a real and substantial risk to the
31 public health and welfare;

(11) the written notification regarding a proposed regulation provided under AS 24.20.105 to the Department of Law and the affected state agency and communications between the Legislative Affairs Agency, the Department of Law, and the affected state agency under AS 24.20.105;

(12) records that are

(A) proprietary, privileged, or a trade secret in accordance with AS 43.90.150 or 43.90.220(e);

(B) applications that are received under AS 43.90 until notice is published under AS 43.90.160.

* **Sec. 6.** The uncodified law of the State of Alaska is amended by adding a new section to read:

FIRST REQUEST FOR APPLICATIONS FOR THE LICENSE. It is the intent of the legislature that the first request for applications for the license by the commissioners under AS 43.90.120, as enacted in sec. 1 of this Act, be issued within 90 days after the effective date of this Act.

* **Sec. 7.** The uncodified law of the State of Alaska is amended by adding a new section to read:

EXPEDITED CONSIDERATION OF COURT CASES. It is the intent of the legislature that the courts of the state, when considering a case related to the development and construction of a natural gas pipeline under this Act or to the commitment of a shipper to acquire firm transportation capacity during the first binding open season for a project developed under this Act, expedite the resolution of the case by giving the case priority over all other civil cases to the extent permitted under the Alaska Rules of Court.

* **Sec. 8.** The uncodified law of the State of Alaska is amended by adding a new section to read:

SEVERABILITY. Under AS 01.10.030, if any provision of this Act, or the application of it to any person or circumstance, is held invalid, the remainder of this Act and the application to other persons or circumstances are not affected.

* **Sec. 9.** This Act takes effect immediately under AS 01.10.070(c).